

REMARKS

In response to the Office Action mailed on September 11, 2007 Applicant respectfully requests reconsideration. Claims 1-3, 10, 12-15, 17-24, 27, 30-32, 39 and 41-43 are now pending in this Application. Claim 1, 12, 22, 30 and 41 are independent claims and the remaining claims are dependent claims. In this Amendment, claims 1, 3, 12, 17-19, 22, 24, 30, 32, 41 and 43 have been amended and claims 4-8, 16, 25, 26, 28, 29, 33-38, 40 and 44-62 have been cancelled. Applicant believes that the claims as presented are in condition for allowance. A notice to this affect is respectfully requested.

Rejections under 35 U.S.C. § 101

Claims 1-11 and 30-62 stand rejected under 35 U.S.C. § 101 as being directed to non-statutory subject matter. The Office in particular states the “claims are directed to a method, process or system for performing a sequence of steps which is merely a program.”

35 U.S.C. § 101 states

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claims 1-3 and 10 state in the preamble “[a] **method** of error detection in a computer processor having a plurality of memory elements.” (Emphasis added) Thus, claims 1-3 and 10 are a method, (e.g. a process), one of the four statutory categories of subject matter. Therefore, claims 1-3 and 10 are *per se* statutory subject matter.

Claims 30-32 and 39 are directed to a computer system. Claim 30 has been amended to recite “[a] computer system, comprising: memory elements; and a processor performing the steps of: computing a base digital root (DR) for

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each memory element having a value stored therein to form a corresponding base DR ... signaling an error based on said comparing.” Thus, claims as written are to a computer system which contains memory elements and a processor which are both hardware elements. MPEP 2601(IV)(B)(2)(a) states “If a claim defines a useful machine or manufacture by identifying the physical structure of the machine or manufacture in terms of its hardware or hardware and software combination, it defines a statutory product. See, e.g., *Lowry*, 32 F.3d at 1583, 32 USPQ2d at 1034-35; *Warmerdam*, 33 F.3d at 1361-62, 31 USPQ2d at 1760.” The claims therefore contain both hardware and software and therefore meet the definition of a machine, one of the four statutory categories and therefore are *per se* patentable subject matter.

Claims 41-51 are directed to a “computer readable medium storing a computer program executable by a computer.” The claims are therefore drawn to an article of manufacture. Therefore, claims 41-51 are *per se* statutory subject matter. See MPEP 2601(IV)(B)(2)(a).

Claims 52-62 have been cancelled consistent with the finding in *In re Nuijten*.

Withdrawal of the rejections is respectfully requested.

Rejections under 35 U.S.C. § 103

Claims 1-15, 22-28, 30-39, 41-50 and 52-61 stand rejected under 35 U.S.C. § 103(a) as being obvious in view of Applicant Admitted Prior Art. The Office has also stated that claims 16-21 and 29 are allowable but objected to as being dependent from rejected claims. Independent claim 12 has been amended to include the features of cancelled dependent claim 16. Independent claim 1 has been amended to include the features of cancelled dependent claim 11. Independent claim 22 has been amended to include the features of cancelled dependent claim 29. Independent claim 30 has been amended to include the features of cancelled dependent claim 40. Independent claim 41 has been

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amended to include the features of cancelled dependent claim 51. Cancelled claim 11, 40 and 51 contained similar features as claim 16 and 29.

Claim 3 has been amended to include the features of claims 4-8. Claim 32 has been amended to include the features of claim 33-37. Claim 43 has been amended to include the features of claims 44-48.

The applicants respectfully submit that no new matter has been added by the claim amendments.

Withdrawal of the rejections is respectfully requested.

Summary

There being no further outstanding objections or rejections, it is submitted that the application is in condition for allowance. It is believe that no new matter has been added. An early action to that effect is courteously solicited.

Applicant(s) hereby petition(s) for any extension of time which is required to maintain the pendency of this case. If there is a fee occasioned by this response, including an extension fee, that is not covered by an enclosed check, please charge any deficiency to Deposit Account No. 50-3735.

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If the enclosed papers or fees are considered incomplete, the Patent Office is respectfully requested to contact the undersigned collect at (508) 616-9660, in Westborough, Massachusetts.

Respectfully submitted,

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